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REMARKS

As a result of the foregoing amendments, claims 35 and 37-39 have been amended to remove typographical/grammatical errors. No new matter has been added by these amendments. The phrase "lysate is a comprises" in claim 35 is an obvious typographical/grammatical error and has been corrected to read "lysate comprises". The phrase "the yield of the soluble protein solution is between about 95% and about 100%" has been corrected to read "the yield of the soluble protein is between about 95% and about 100%". Support that the proper yield to be measured is the yield of the protein and not the yield of the solution volume can be found on page 8 of the specification, where one method of measuring the yield is disclosed to be quantitative reverse phase HPLC (a method of measuring amounts of protein, not a solution volume), and in Example 1 on page 13, where the yield given is the "yield of [the protein] SY161", not the yield of a solution volume.

Claims 24-29 are pending.

Applicants respectfully request reconsideration of the election requirements and the rejection of the claims over the prior art.

Continuing Traverse of Election Requirement

Applicants continue to traverse the species election presented in the Office Action of May 16, 2006. See Applicant's response of June 16, 2006 for arguments showing the impropriety of this election requirement. It appears that this species election is being maintained in the current Office Action, but this is not entirely clear. None of applicant's arguments of traverse are acknowledged or addressed in the instant Office Action. Applicants respectfully request a clear statement on the record that either 1) the election requirement has been withdrawn, or 2) that the election requirement has been made final and that the election requirement was timely traversed. Either statement will greatly assist Applicants in determining whether to petition the election requirement.

Obviousness-type Double Patenting Rejections

Claims 24 and 25 stand rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of USP 6,995,246. Claims 24 and 25 also stand provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claim 24 of copending application 10/698230. Applicants respectfully traverse both of these rejections as being improper. Neither rejection provides any comparison of the different limitations of each set of claims or makes any statements as to why the differences in the claimed methods would have been obvious to one of skill in the art. Accordingly, both rejections are improper, because they fail to present a *prima facie* case of obviousness-type double patenting. Reconsideration and withdrawal of this rejection are respectfully requested.

Objection to Claim 35 Overcome by Amendment

The typographical/grammatical error pointed out by the Examiner on page 3 of the instant Office Action has been overcome by amendment.

Claims are Non-obvious

Claims 24-32 and 37-39 stand rejected under 35 U.S.C. §103 as being unpatentable over Hsu (US 6,008,328) in view of Hennen (US 6,468,534) or Colpan (US 6,274,371). Reconsideration and withdrawal of this rejection are respectfully requested. This obviousness rejection is improper because none of the references, taken individually or as a combined whole, teach or suggest the instant limitation that the filtration must take place through "highly purified" diatomaceous earth. Support for the instant claim limitation and a definition of "highly purified" diatomaceous earth can be found on page 8 of the instant specification.

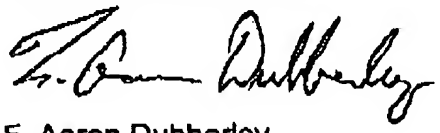
Claims 24-32 and 37-39 stand rejected under 35 U.S.C. §103 as being unpatentable over Hsu (US 6,008,328) in view of Bobbitt (US 4,923,967) and further in

view of Hennen (US 6,468,534) or Colpan (US 6,274,371). Reconsideration and withdrawal of this rejection are respectfully requested. The rejection appears to have been placed in the Office Action by error. The rejection states that Hsu, Hennen and Colpan fail to disclose "the use of sodium thiosulfate or sodium tetrathionate", but argues that instant claims are rendered obvious because of the teachings of Bobbitt that "sulfitolysis may be achieved (col 5, line 24) by use of thiosulfate or sodium tetrathionate." **There are no limitations in the instant claims regarding sulfitolysis, thiosulfate or sodium tetrathionate.** This rejection appears to have been placed in the instant Office Action by mistake and should be withdrawn. Applicants reiterate that none of Hsu, Hennen, Colpan or Bobbitt, taken individually or as a combined whole, teach or suggest the instant limitation that the filtration must take place through "highly purified" diatomaceous earth.

Claims 33, 34 and 36 Appear to be Allowable

Applicants note that although claims 33-36 have been listed on the Office Action summary page as being "objected to", only claim 35 was objected to in the Office Action. The Office Action contains no objections to or rejections of claims 33, 34 or 36. Accordingly, it appears that the Examiner has determined that these claims are allowable. A clear statement of the status of claims 33, 34 and 36 is respectfully requested.

Respectfully submitted,



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